

Report to the Loudoun County Board of Supervisors' Economic Development Committee From the Loudoun County Economic Development Commission

Improving the Land Development Process in Loudoun County

June 22, 2004

1. **Introduction:** Members of the Loudoun County Board of Supervisors' Economic Development Committee (the "LCEDC") requested that the Loudoun County Economic Development Commission (the "EDC") review the Loudoun County ("LC") land development process and present "streamlining" recommendations to the LCEDC. Dave Parker, Chairman of the EDC, put together an Ad-Hoc Committee to address this request, which met on March 5th and provided high level recommendations to the LCEDC on March 23, 2004. The main recommendation of the Ad Hoc Committee to the LCEDC was that although a special process for targeted projects was important for strong economic development in LC, it should not be a substitute for continuous efforts to streamline LC's overall development process, to make the processing for subdivisions, site plans and permit applications more predictable, more timely, and more user friendly. With the approval of the LCEDC, the Ad Hoc Committee passed this recommendation to the EDC Transportation and Infrastructure Committee ("TIC") for study, review and to present findings and recommendations to the LCEDC. This report is the result of the TIC's work. This report and the recommendations it contains, was presented to the full EDC on June 4, 2004 and adopted and approved for presentation to the LCEDC.
2. **Overall Process Improvement:** The land development process in LC is viewed as a cumbersome, lengthy and costly process. With the implementation of the Revised Comprehensive Plan and the 1993 Amended Zoning Ordinance, the development process has become even more confusing and difficult to get through in a timely manner. Without examining the difficulties of having multiple zoning ordinances and the inconsistencies in the Revised Comprehensive Plan, the EDC recommends that the LC Board of Supervisors (the "BOS") consider making the following land development process improvements, which would be a step toward meeting an overall goal of creating a stable and predictable regulatory climate:
 - a. **Recommended changes that can be implemented immediately and that are administrative by nature:**
 - i. **Eliminate performance bonds for private improvements on site plans.**

The effect of LC requiring such performance bonds is that it ties up money for the life of a project, and makes it much more difficult for small land owners and many developers to develop land in LC. Since there is not a public benefit to bonding private improvements (e.g., landscaping, private parking lots, etc.), eliminating this requirement will streamline the site plan approval process and remove this unnecessary burden. LC is currently reviewing this issue. ESI has set up a committee to examine modifying bonding requirements. The LC

Administrator's Office has also set up a working group to examine this issue. Upon completion of these two (2) reviews, the groups will get together and make recommendations to the County Attorney's office for adoption. We recommend that the work by these groups be completed by July 31, 2004. If LC is reluctant to eliminate performance bonds for site plans due to the concern that the final details of the site plan will not be completed, one alternative is to require a fixed price bond for occupancy of a project, perhaps equal to \$50,000 if the project is over 7,500 square feet of building space. If under 7,500sf, no bond should be required. This fixed amount would assist in guaranteeing that the project gets completed, but also eliminates small projects that would not create a need to force completion. A simple form bond should also be developed for use in this case.

- ii. **Consistent staffing on projects.** When staff member(s) are assigned to a land development project LC needs to make sure that they remain on the project for the life of the project. Changes in staff during project approval process costs LC and the land owner money and time, and requires the new staff member to spend more time than normal to get up to speed on the history of the project.
- iii. **Clear identification of requirements v. recommendations.** Staff needs to clearly define which responses to submittals are comments that must be complied with by an applicant "requirements" and which responses are recommendations. If an applicant chooses not to follow a Staff recommendation, the response should be closed and should not resurface on a later document or hold up an approval. LC Administration has stressed this point to staff, but total implementation is incomplete. Implementation should be completed with all County review staff and a standard form of the comment letter should be used for consistent implementation.
- iv. **Training.** Staff and the private sector design community needs to be trained in the actual requirements and clauses of each of the zoning ordinances and the FSM. A consistent implementation of the rules must be achieved from both the design and administering of the requirements. Policy changes to the requirements must be consistent and outwardly advertised to the design community. The use of classes and workshops should be expanded. LC needs to be competitive in the market and train and pay staff to keep them – to ensure consistency and expertise in the land development process. Staff needs a positive "can do" attitude!
- v. **Clear up the rules.** LC's development regulations are in need of a review and update. The documents are not up to date to current design and review standards. The documents also need to be reviewed in total to best match the goals of LC with the land development process. The land development review process should only include clear and concise requirements that meet the goals of LC. The FSM Public Review Committee and the suggested

Zoning Ordinance technical committee (see below) should begin a thorough review to better streamline the land development process including a review to improve the predictability of the review process and eliminate unnecessary or duplicative requirements. While the total review of these regulations may take many months, the review process should begin immediately.

- vi. **Allow more of the process to be parallel and not sequential.** Most LC land development submissions can not run parallel. We recommend that LC allows parallel submissions where possible – some examples are: (a) while preliminary plats are being reviewed, allow an applicant to submit construction drawings for review; (b) review of building permit applications by zoning personnel and fee calculation department to occur concurrently with the building department review; and (c) mapping can assign addresses earlier in the process so that this is not a critical path item and the fact that mapping needs to handle address plats with each tenant permit application in order to assign suite numbers is a requirement that we believe only exists in LC and has slowed down the issuance of tenant permits in many instances.
- vii. **Synchronize the development process.** Certain portions of the review process lag far behind their needed response time. For example zoning referrals come back to applicants sometimes months late. Staff has indicated that it can take up to 16+ hours to write a zoning referral because of the complexity involved with having multiple zoning ordinances. Some of the causes of these delays are administrative, some are HR-related and some are legislative (there is so much uncertainty in the zoning ordinance). Review and action should continually be made to assure timely responses are made during all parts of the development review process. We recommend that the Technical Committee (see below) conduct a monthly review of identified items that are slowing down the zoning process and recommend “monthly fixes” to improve the process. Staff should be instructed to be flexible and realistic and to use common sense in today’s world. If a “win-win” attitude is taken by the public and private sector, the process would move much quicker. Finally, comments should be constructive and sensible - if there is no “public concern,” no comment is needed.
- viii. **Distinguish land development project requirements.** Not all land development requirements fit all land development projects. Distinguish application and submittal requirements by project size, as well as revitalization and redevelopment projects. By reducing the requirements for smaller projects and projects that do not involve significant land disturbance, staff’s time can be better utilized.
- ix. **Develop a formal project feedback system.** Feedback is a very valuable assessment tool and will provide LC with valuable insight and information. We recommend that a formal feedback system be immediately put into place. There are two primary feedback recommendations: (i) The Department of

Economic Development can call all land owners/developers once a project is completed and ask some questions to obtain information on how the land owner/developer land development process/project went or (ii) The Department of Economic Development can send out a questionnaire to land owners/developers, once a project is completed, and request that the questionnaire be completed and sent back to them within 30 days after the completion of the project. The DED can gather this information and prepare a summary report for distribution to LC Staff.

- x. **Create “emergency” contact information.** Many land owners/developers do not know who to contact in LC if they have an issue or problem in the land development process. LC should create an “emergency” project contact list for distribution to those involved in the land development process. This will enable a land owner/developer, engineer, or other person involved in a project, to communicate issues immediately when they occur and keep the land development process moving. This contact list should only be used for projects “in the process,” not for developers looking for information on the process.
 - xi. **Timely referral comments.** Specific response time requirements should be implemented, communicated to Staff and complied with. LC should publish in-house guidelines addressing timeline for certain comments, if not specifically addressed in the FSM. When developing the response times, we recommend that staff take part in establishing reasonable response times.
 - xii. **Flow chart the Loudoun County land development process.** LC needs to flow chart and map out the entire land development process. This will clarify the process for all land owners/developers and staff, create predictability in the process and assist LC with addressing weaknesses in the process. Another benefit may be that by charting the process, it will be easier to identify overlap and portions of the process that can be completed concurrently as opposed to sequentially. We recommend that the mapping project be assigned to the already existing ESI Loudoun Committee and that they are tasked with mapping the process by December 31, 2004.
- b. **Recommended changes that can be implemented immediately but are legislative by nature:**
- i. **Refine the zoning ordinance.** Too much complexity exists in the multiple zoning ordinances, without a public purpose. We recommend that the zoning ordinances be reviewed and, without rule changes, made clearer, with easier language to understand and decreased complexity. A few areas that could be easily improved are landscaping, buffers and setbacks. This review could be done by the Zoning Ordinance technical committee (see below).

- ii. **Update the zoning ordinance use list.** The use lists in the current zoning ordinances need to be updated to reflect current times and economic conditions. Since many types of development projects are not addressed in the current use lists, it is easier for staff to deny approval than approve a use if they are not clear on the applicability of a zoning ordinance use to a project.
 - iii. **Create a zoning ordinance technical committee.** LC needs to create a technical committee -- a small, select group of land development “experts,” experienced in LC land development, who has demonstrated a strong local knowledge and devotion to LC, to fix/clarify the language in the zoning ordinance (not substantive changes). Much like the FSM technical committee, this group should be a public/private initiative and should be set up in the same way as the FSM technical committee is set up. This group will address conflicts in the zoning ordinance and propose language clarifications for the BOS to approve. This would be a long term, on-going project that could be completed in 2-3 years.
 - iv. **Re-establish open season for zoning ordinance opt-ins.** Create an open season once a year to permit land owners to opt-in from the 1972 zoning ordinance to the 1993 zoning ordinance with a request letter (and not have to go thru the lengthy and costly legislative process).
- c. **Recommended changes that are long term and that are administrative by nature**
- i. **Create an on-line land development tracking system.** LC needs to create an on-line land development system that enables land owners/developers to check the status of the submittals and applications during the land development process. This will reduce the amount of time that staff spends on the telephone providing this information to developers/land owners.

3. **Modified Process:** The TIC discussed LC’s past history for “modified” or “expedited” or “streamlined” processing, and to consider how such a program might be structured and implemented today. As previously mentioned, although a special process designation for targeted projects is important, it should not be a substitute for continuous efforts to streamline LC’s overall development process, to make the processing of subdivisions, site plans, and permit applications faster, cheaper, and more user friendly. However, LC competes in a regional economy, and some of our neighbors, particularly Prince William County, work to make their development approval process extremely quick and smooth, and they heavily promote their process. The EDC recommends that LC adopt and implement a Modified Process.

A Modified Process can be used as a marketing tool (create a one page sheet to include in the marketing package and on the website to promote the projects that would be able to apply for modified process, and what would then be done).

The LC Administrator's Office is to have the authority to deem an administrative project as qualifying for a modified process. The EDC believes that it is important to remove modified processing from the political arena, by establishing clear, but strictly limited criteria for what projects qualify, then leaving it to the LC Administrator's Office to determine what projects qualify. Of course, the BOS would have the ability to discuss and advise the LC Administrator's Office as to their views on whether a project qualifies for modified processing.

It is critical to have a shared objective as to which projects would qualify for a Modified Process. Previous efforts at "expedited" process have encountered objections based on the projects approved and the perception that (i) public review of controversial projects was thwarted and (ii) other applicants were being slowed down by the favored treatment given the expedited projects.

A Modified Process should be available for projects that not only build up the commercial tax base, but create well paid jobs for our residents and for uses which are, in general, clean and non-controversial. The EDC recommends that a Modified Process be available for the following projects:

- New Construction for Targeted Industries: Bio –technology, Technology (hardware and software), post high school educational facilities, Homeland Defense Contractors, projects compatible with the operation and future development of Dulles Airport;

Or

- Office/Flex/Industrial buildings that are over 75,000sf of use;

Or

- Rural economy projects defined in the LC Zoning Ordinance as Level III and Level IV that increase LC tourism.

- * A Modified process would **not** be available for any project that requires a legislative act such as a rezoning or a special exception. The BOS always retains the authority to set whatever priority it deems appropriate for a rezoning or special exception, including joint public hearings or concurrent processing of development applications while the legislative process is ongoing.
- * Land owners/developers could apply to the County Administrator's Office for exceptions to the Modified Process.
- * A Modified Process would not be available for any residential project, or for retail sales establishments.
- * A Modified Process is not warranted for tenant improvements.

Upon the determination that a project qualifies for a Modified Process then the following will be offered:

- Modified process (assuming quality submission)—move to the top of the review list
- Assigned a Special Team Review
- DED Project Manager assigned to project
- Specific review and approval Timeline [To be agreed to by LC Administrator's Office]